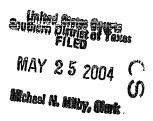
IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION



Mark NEWBY, Plaintiff, v. ENRON CORP., et al., Defendants.	§ Section S
AMERICAN NATIONAL INSURANCE COMPANY, et al., Plaintiffs, vs. ARTHUR ANDERSEN, L.L.P., et al. Defendants.	 § § § § Civil Action No. G-03-967 § § §
AMERICAN NATIONAL INSURANCE COMPANY, et al., Plaintiffs, vs. J. P. MORGAN CHASE & COMPANY, Defendant.	§
AMERICAN NATIONAL INSURANCE COMPANY; et al., Plaintiffs vs. CITIGROUP, INC; et al. Defendants.	<pre> §</pre>
AMERICAN NATIONAL INSURANCE, et al., Plaintiffs,	\$ \$ \$ \$



v. LEHMAN BROTHERS HOLDINGS, INC., et al., Defendants.	800000	Civil Action No. G-02-463
WESTBORO PROPERTIES, LLC and STONEHURST CAPITAL. INC. Plaintiffs vs. CREDIT SUISSE FIRST BOSTON, INC., et al., Defendants.		Civil Action No. H-03-1276
AMERICAN NATIONAL INSURANCE COMPANY, et al., Plaintiffs vs. ROYAL BANK OF CANADA Defendant.	<i>\$\tag{\tau}\tau\tau\tau\tau\tau\tau\tau\tau\tau\tau</i>	Civil Action No. G-03-0481
WESTBORO PROPERTIES, L.L.C. and LUCELIA FOUNDATION, INC. Plaintiffs vs. JP MORGAN CHASE & COMPANY Defendant.		Civil Action No. H-03-5424

RESPONSE BY PLAINTIFFS AMERICAN NATIONAL, ET AL., AND WESTBORO PROPERTIES, ET AL, IN OPPOSITION TO BANK DEFENDANTS' MOTION FOR MODIFICATION OF SCHEDULING ORDER

Plaintiffs in the above styled actions file this Response in Opposition to The Bank Defendants' Motion for Modification of Scheduling Order.

DEPOSITIONS SHOULD NOT BE DELAYED

The Banks provide no legitimate justification for a blanket delay of depositions. Only fact witnesses are scheduled for deposition during June through August 2004. These witnesses, accordingly, will be examined only on matters within their personal knowledge. *See* Fed. R. Evid. 602. Nowhere in the Bank's Motion to modify the scheduling order, or in over two hundred pages of exhibits tendered in support of the Motion, do the Banks explain why any of the witnesses scheduled for June-August depositions must examine Enron or Arthur Andersen documents in order to testify on personal knowledge about matters that occurred years ago.

The Federal Rules of Civil Procedure contemplate that all types of discovery – interrogatories, requests for production, depositions – may be pursued simultaneously. If a rule required that every document be produced prior to depositions, the time from the filing of a typical lawsuit to judgment would be greatly increased, and the instant lawsuit would never end.

The Banks are disingenuous in claiming "surprise" that not every Enron and Arthur Andersen document will be available by June 1, 2004. If the Banks are truly surprised, they are the only ones. The sheer magnitude of the production virtually guaranteed that the document production and preparation would not be completed by June 1. If the Banks were monitoring the document production as claimed, they should have determined their purported "need" to postpone the depositions long ago. Plaintiffs have arranged their schedules and purchased transportation to attend the scheduled depositions. Changing the deposition schedule at this late date would therefore work a

hardship on Plaintiffs. Considering all the relevant factors, the deposition schedule should not be modified.

PRAYER

Plaintiffs pray that the Bank Defendants' Motion for Modification of the

Scheduling Order be denied.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that on this the 24th day of May, 2004, a copy of the forgoing document was served on all counsel of record by posting in PDF format to www.esl13624.com.

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IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

Mark NEWBY,	§	
Plaintiff,	Ş.	
	§	
v.	§	Consolidated Lead No. H-01-3624
	§	
ENRON CORP., et al.,	§	
Defendants.	§	₩ .

ORDER

Before the Court is the Bank Defendants' Motion for Modification of Scheduling Order.

The Court has considered the Motion and Response and concludes that the Motion is without merit.

It is, therefore, the ORDER of the Court that Bank Defendants' Motion for Modification of Scheduling Order is hereby DENIED.

DONE this ____ day of May, 2004.

MELINDA HARMON UNITED STATES DISTRICT JUDGE